

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #10	CCRB Case #: 202007247	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 10/29/2020 9:50 PM	Location of Incident: In front of 445 East 136th Street in the Bronx	Precinct: 40	18 Mo. SOL 4/29/2022	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 11/02/2020 9:51 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 11/02/2020 9:51 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DTS Yahkeem White	11719	948604	PSA 7
2. SGT Michael Bletcher	03912	929740	PSA 7
3. PO Christophe Medina	02088	952000	PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Manolin Molina	27653	936051	PSA 7
2. POM Carlos Gomez	14919	955954	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Bletcher	Abuse: Sergeant Michael Bletcher stopped the vehicle in which § 87(2)(b) was an occupant.	
B.PO Christophe Medina	Abuse: Police Officer Christopher Medina stopped the vehicle in which § 87(2)(b) was an occupant.	
C.DTS Yahkeem White	Abuse: Police Officer Yahkeem White searched the vehicle in which § 87(2)(b) was an occupant.	
D.DTS Yahkeem White	Abuse: Police Officer Yahkeem White searched § 87(2)(b)	
E.PO Christophe Medina	Abuse: Police Officer Christopher Medina refused to provide his name to § 87(2)(b)	
F.SGT Michael Bletcher	Abuse: Sergeant Michael Bletcher refused to provide his name to § 87(2)(b)	
G.PO Christophe Medina	Abuse: Police Officer Christopher Medina refused to provide his shield number to § 87(2)(b)	
H.SGT Michael Bletcher	Abuse: Sergeant Michael Bletcher refused to provide his shield number to § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On November 2, 2020, § 87(2)(b) called the CCRB and filed this complaint.

On October 29, 2020, at approximately 9:50 p.m., § 87(2)(b) was driving his sister's Chevrolet Malibu when a police vehicle containing Sergeant Michael Bletcher, Police Officer Christopher Medina, and Police Officer Yahkeem White (all of Police Service Area 7) stopped his car (**Allegations A and B, Abuse of Authority: Vehicle stop**, § 87(2)(g) PO White reached into § 87(2)(b)'s car, removed § 87(2)(b)'s messenger bag as well as a shopping bag, and searched the bags (**Allegation C, Abuse of Authority, Vehicle search**, § 87(2)(g) (**Allegation D, Abuse of Authority: Search (of person)**, § 87(2)(g) Sgt. Bletcher and PO Medina failed to provide their names to § 87(2)(b) upon request (**Allegations E and F, Abuse of Authority: Refusal to provide name**, § 87(2)(g) § 87(2)(b) allegedly asked Sgt. Bletcher and PO Medina for their shield numbers (**Allegations G and H, Abuse of Authority: Refusal to provide shield number**, § 87(2)(g)

Police Officer Carlos Gomez and Police Officer Manolin Molina of Police Service Area 7 were also present during this incident.

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) was not arrested or summonsed regarding this incident.

The investigation received BWC footage regarding this incident, the relevant aspects of which shall be discussed below (**BR 01-05**).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Michael Bletcher stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (B) Abuse of Authority: Police Officer Christopher Medina stopped the vehicle in which § 87(2)(b) was an occupant.**

This allegation is pleaded against Sgt. Bletcher because he was the highest-ranking officer in the car that stopped § 87(2)(b) and against PO Medina because he was the operator of the vehicle at the time.

It is undisputed that § 87(2)(b) was double-parked in the vicinity of 494 East 139<sup>th</sup> Street and that officers provided that as the primary justification for conducting a car stop.

In his CCRB interview (**BR 06-07**), § 87(2)(b) said that on October 29, 2020, he was with his sister and niece at § 87(2)(b) in the Bronx: another sister of § 87(2)(b)'s lived at the address. § 87(2)(b)'s sister and niece had just driven up from Virginia in her dark grey Chevrolet Malibu with Florida disabled veteran plates. § 87(2)(b)'s sister and niece unloaded their suitcases from the Chevy as § 87(2)(b) sat in the driver's seat. The car was double-parked on the street in front of § 87(2)(b). While they unloaded their possessions, § 87(2)(b) noticed that an unmarked grey/black Ford sedan drive very slowly, slowly enough that traffic began to build up behind the Ford, past the Chevy and look at § 87(2)(b). Once § 87(2)(b)'s sister and niece got all their things together, § 87(2)(b) began to drive to work alone. After driving for several blocks, the unmarked car that § 87(2)(b) had seen earlier flashed its lights and sirens. § 87(2)(b) pulled over on the left side of the road, midblock, in front of 445 East 136<sup>th</sup> Street in the Bronx. The time was approximately 9:50 p.m. PO Medina approached the vehicle and told § 87(2)(b) that they had pulled him over because he had been double-parked in front of his sister's building back on East 139<sup>th</sup> Street.

In his CCRB interview (**BR 08**), PO Medina said that he was driving with PO White and Sgt. Bletcher when he saw § 87(2)(b)'s vehicle double-parked. PO Medina noted that the area in which § 87(2)(b)'s vehicle was parked was a "high-crime area," noting that narcotics, marijuana, crack, and heroin were peddled in the vicinity. PO Medina did not observe any other infractions or violations committed by § 87(2)(b)'s sedan.

PO White's statement to the CCRB (**BR 09**) was generally consistent with that of PO Medina regarding the observation of § 87(2)(b)'s double-parked vehicle. PO White did not recall how long § 87(2)(b)'s vehicle was double-parked in his observation.

Sgt. Bletcher's statement to the CCRB (**BR 10**) was generally consistent as well, though Sgt. Bletcher said that he also saw that all the windows of § 87(2)(b)'s vehicle were tinted. Sgt. Bletcher did not ever check the tint level of § 87(2)(b)'s windows.

Per **Vehicle and Traffic Law § 1202 (BR 11)**, "no person shall stop, stand, or park a vehicle on the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street."

§ 87(2)(b), § 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Yahkeem White searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (D) Abuse of Authority: Police Officer Yahkeem White searched § 87(2)(b)**

It is undisputed that PO White reached into § 87(2)(b)'s vehicle and removed both bags that were in the backseat of the car.

In his CCRB interview, § 87(2)(b) said that no one had smoked marijuana that evening in his sister's vehicle and the vehicle did not smell of marijuana; the vehicle had a tint strip on one of its windows and all the windows were somewhat tinted; § 87(2)(b) had a bag with his work computer in the backseat behind the driver's seat and his sister also had placed a bag of some of her belongings beside his bag.

Between the 01:20 and 02:40 timestamps of PO White's BWC (**BR 02**), PO White first removes a brown messenger bag from the backseat of § 87(2)(b)'s vehicle. PO White opens the bag and shines a flashlight into the open bag. He inspects the brown bag for approximately 30 seconds. PO White then grabs a white paper bag that had been resting on the rear bench. PO White removes the bag's contents, places them on the rear bench, and then places the bag itself back inside the vehicle. At the 03:50 timestamp, PO White provides the following justification to § 87(2)(b) regarding why he searched the bags: We stopped you for a violation. Once you commit a lawful violation, we have the right to stop you. I have the right to search any bags in lungible areas."

As noted above, § 87(2)(b) said that the messenger bag contained his work laptop and the other bag contained his sister's belongings. § 87(2)(b) said that no one had smoked marijuana inside his car and the car did not smell of marijuana. After PO White searched the bags, Sgt. Bletcher provided him with a Legal Bureau Bulletin which Sgt. Bletcher said justified the search of the bags.

In his CCRB interview, PO White said that when he first approached § 87(2)(b)'s vehicle, he noticed two bags placed in the back seat that were within a "lungible area." One bag was placed behind § 87(2)(b)'s seat and the other was in the backseat. PO White shined his flashlight into § 87(2)(b)'s vehicle to better see the cabin. Other than the two bags, PO White did not see anything in the cabin that was within reach of § 87(2)(b). PO White did not recall anything that was in the cabin of § 87(2)(b)'s vehicle excepting § 87(2)(b) himself and the two bags mentioned above. PO White detected an odor of marijuana emanating from the vehicle upon approach. PO White did not know the difference of odor between burnt and unburnt marijuana and thus was unable to describe the odor other than it being "pungent." PO White did not see any smoke inside the cabin. PO White did not see any marijuana inside the vehicle. PO White did not discuss this odor of marijuana with any of the officers on-scene. No other officer mentioned an odor of marijuana. PO White noted that, given the odor of marijuana, he had the legal right to search the vehicle bumper-to-bumper and also search all occupants of the vehicle. PO White described § 87(2)(b) as "agitated" when officers approached him. § 87(2)(b) was "passive-aggressive" in his verbal tone and his remarks; § 87(2)(b) was also "passive-aggressive" physically through his eye contact and facial expression. § 87(2)(b)

§ 87(2)(b) said that his constitutional rights were being violated. PO White did not recall where § 87(2)(b)'s hands were at the time. PO White did not recall if § 87(2)(b) reached for anything inside his vehicle. PO White grabbed the two bags from the back seat through the open rear driver's side window. PO White did so without instruction from any other officer. PO White cited the marijuana exception and that the bags were in a "lungible area" as the reasons why he grabbed the bags. PO White first frisked a messenger bag that was behind § 87(2)(b)'s seat. PO White felt a heavy object inside the bag and thus opened the bag – he discovered that there was a laptop inside. PO White did not recall if there were any bag compartments additional to the compartment that the laptop was in. PO White did not recall if he opened up any other parts of the bag. PO White then put the bag down. The second bag was a white shopping bag with two string handles. PO White picked up the bag, felt the bag. PO White did not recall if he removed anything from the white shopping bag. PO White did not recover anything from the two bags. The searching of the bags took approximately one minute.

In his CCRB interview, Sgt. Bletcher said that he approached § 87(2)(b)'s vehicle on the passenger side. Sgt. Bletcher did not detect any odor of marijuana inside the vehicle and did not see any indication of any smoke inside the cabin of the vehicle. Sgt. Bletcher did not direct PO White to search the bags. Sgt. Bletcher believed that the Legal Bureau Bulletin provided to § 87(2)(b) said vehicle searches are permissible given the presence of an odor of marijuana inside a vehicle, and that the bulletin said that officers may search a vehicle when they have reason to believe that there is a weapon in the vehicle. Sgt. Bletcher said that the marijuana part applied because PO White smelled an odor of marijuana. PO White did not note that he smelled a faint odor of marijuana to Sgt. Bletcher until after the vehicle stop concluded and Sgt. Bletcher was not sure if PO White told any other officer about smelling an odor of marijuana. Sgt. Bletcher said that, given where § 87(2)(b) was originally parked, that it was possible that § 87(2)(b) had a weapon inside the vehicle.

In his CCRB interview, PO Medina said, upon the investigation's questioning of whether there was any evidence of contraband inside the vehicle (at the 20:25 timestamp of the audio record), that he detected a lingering, faint odor of unburnt marijuana when he was speaking with § 87(2)(b). The odor emanated from the cabin of § 87(2)(b)'s sedan. PO Medina said that the difference between the odors of burnt and unburnt marijuana lies in the pungency of the odor; burnt marijuana is more pungent and has the byproduct of marijuana smoke. PO Medina did not see any marijuana inside the vehicle. PO Medina did not remove § 87(2)(b) from his car because PO Medina used his discretion to not search § 87(2)(b) and his sedan pursuant to the odor of marijuana. PO Medina never said to any other officer that he smelled an odor of marijuana. No other officer said that they smelled an odor of marijuana. When PO White searched the bags in the backseat, he did not contemporaneously say why he was doing so. PO Medina believed that the Legal Bureau Bulletin noted that officers may search bags for contraband if they exist within a reachable area of occupants.

§ 87(2)(b) took a photograph of the Legal Bureau Bulletin (**BR 12**), which was circulated on July 15, 1982. Its subject is "Searches of Automobiles." Its question is, "When a police officer has probable cause to believe a motor vehicle contains contraband, to what extent may the officer search the vehicle?" The answer is, "According to the U.S. Supreme Court, the officer may search, without a warrant, every part of the vehicle and its contents, including: all containers and packages that may conceal the contraband being sought. *U.S. v. Ross*, 456 U.S. 798 (1982)." The bulletin, as photographed, then continued to present the facts of the Supreme Court case, which are dilatory in this exercise.

PO White prepared a memo book entry for this incident on November 2, 2020, or four days after the incident took place (**BR 13**). Therein, he wrote the following: "Lawful [car stop] in regard to double parked vehicle[.] Upon approach of vehicle driver was ordered to roll down windows[.] Upon observations within the vehicle for the safety of the officers conducting the [car stop] I noticed two bags within reach of driver at that time. A backpack and paper bag was frisked and searched for weapons (Backpack Bag contained heavy hard object cell phone and laptop)(Smaller

bag contained a cell phone which was slightly visible and confirmed after searching).”

Per PO Medina’s BWC between the 01:10 and 02:50 timestamps (**BR 03**), § 87(2)(b) never turns his torso and only moves his left wrist and hand occasionally to gesticulate while talking to the officers. Otherwise, both hands remain on the steering wheel. § 87(2)(b) s hands are always visible and do not meaningfully change their position. When PO White begins his search, § 87(2)(b) turns his head at a right angle towards PO Medina while his hands remain on the steering wheel. § 87(2)(b) never turns his body or reaches towards the back seat of his vehicle prior to, during, or after PO White’s search.

Per *People v. Chestnut*, 36 N.Y.2d 971 (**BR 14**), the odor of marijuana emanating from a defendant’s vehicle provides officers with probable cause to search the vehicle and its occupants.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Per *People v. Hardee*, 126 A.D.3d 626 (**BR 15**), officers may conduct a “very limited search” of a vehicle where officers can establish probable cause, through the totality of the circumstances (including the demeanor and movements of the occupants) that a weapon is secreted in the searched area.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

**Allegation (E) Abuse of Authority: Police Officer Christopher Medina refused to provide his name to § 87(2)(b)**

**Allegation (F) Abuse of Authority: Sergeant Michael Bletcher refused to provide his name to § 87(2)(b)**

**Allegation (G) Abuse of Authority: Police Officer Christopher Medina refused to provide his shield number to § 87(2)(b)**

**Allegation (H) Abuse of Authority: Sergeant Michael Bletcher refused to provide his shield number to § 87(2)(b)**

§ 87(2)(b) said that he told Sgt. Bletcher, “I want the names of every officer involved and I will be filing a complaint because what y’all just did was very illegal.” § 87(2)(b) noted in a follow-up call that he also asked for all the officers’ shield numbers. While PO White provided § 87(2)(b) with a business card, no other officer provided § 87(2)(b) with their names or shield numbers.

Per PO Medina’s BWC between the 02:47 and 02:55 timestamps, § 87(2)(b) said, “I want everybody’s name involved here,” while motioning his left hand backwards towards PO White and PO Medina, to which Sgt. Bletcher responds, “Not a problem.” § 87(2)(b) then says, “That is very illegal and I know my rights.” PO White responds, “It is very legal, that’s why I did it.” § 87(2)(b) responds, “No, it’s not,” to which PO Medina retorts, “You’re not going to tell us what our job is.” § 87(2)(b) does not ask for the shield numbers of the officers.

§ 87(2)(b) never asks for the shield numbers of the officers in any of the five BWC activations regarding this incident. The five BWC activations cover the entire incident.

PO Medina and Sgt. Bletcher do not provide their names to § 87(2)(b) in any of the five BWC activations regarding this incident.

PO Medina did not recall if § 87(2)(b) made a request for his name specifically or a request for the names of all involved officers. Upon reviewing BWC showing § 87(2)(b)’s request for the names of all officers involved, PO Medina said that he had no independent recollection of § 87(2)(b)’s question or answering it.

Sgt. Bletcher was unsure if § 87(2)(b) requested the names and shield numbers of all the officers involved. Sgt. Bletcher said that § 87(2)(b) never asked for his name and shield number. Sgt. Bletcher said that he never provided his name or shield number. Upon reviewing BWC showing § 87(2)(b)’s request for the names of all officers involved, Sgt. Bletcher said that he did not recall if he ever provided his name § 87(2)(b) with his name during this incident but remembered that he told § 87(2)(b) to contact PO White if § 87(2)(b) needed more information.

Per Patrol Guide Procedure 203-09 (BR 16), all uniformed members of service are to courteously and clearly state their name and shield numbers to anyone who requests them to do so.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(4-b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party (**BR 20**).
- Sgt. Bletcher has been a member of service for 19 years and has been a subject in nine CCRB complaints and 20 allegations, six of which were substantiated or noted.
  - 201608992 involved substantiated allegations of refusal to provide name/shield number, a stop, and a citation for the failure to produce a stop and frisk report. The CCRB recommended Command Discipline A, which the NYPD subsequently imposed.
  - 201910059 involved substantiated allegations of failure to provide RTKA card, discourtesy – word, and a § 87(4-b), § 87(2)(g). The CCRB recommended Command Discipline B, though the NYPD's imposed penalty is not yet available in the CTS+ database.
- PO Medina has been a member of service for nine years and has been a subject in three CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- Det. White has been a member of service for 11 years and has been a subject in 12 CCRB complaints and 25 allegations, five of which were substantiated or noted.
  - 201207175 involved substantiated allegations of a stop and frisk. The Board recommended charges. In the subsequent APU trial, Det. White was found guilty of the frisk but not guilty of the stop. The NYPD imposed a reprimand for the frisk and instructions for the stop.
  - 201603587 involved other misconduct, specifically a failure to prepare a memo book entry. The NYPD imposed instructions.
  - 201606290 involved a substantiated allegation of a stop and a citation for the failure to produce a stop and frisk report. The CCRB recommended formalized training, which the NYPD subsequently imposed.

#### **Mediation, Civil, and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.

- As of May 25, 2021, the New York City Office of the Comptroller has no record of any Notices of Claim filed regarding this incident (**BR 21**).

- § 87(2)(b)

Squad: 10

Investigator: Ethan C. Waterman      Inv. Ethan Waterman      11/29/2021  
Signature      Print Title & Name      Date

Squad Leader: Eric Rigie      IM Eric Rigie      12/1/2021  
Signature      Print Title & Name      Date

Reviewer: \_\_\_\_\_  
Signature      Print Title & Name      Date